

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

TIMOTHY SIMMS,

Petitioner,

Case No. 2:22-cv-474

- vs -

District Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

WARDEN, Grafton Correctional Institution,
Respondent.

DECISION AND ORDER

This habeas corpus case is before the Court on Petitioner's Objections (ECF No. 32) the Magistrate Judge's Decision and Order (ECF No. 29) Denying Petitioner's Motion to Remit Case to Original Magistrate Judge (ECF No. 28).

Because litigants cannot choose the judicial officers to whom their cases are assigned, the only basis for transferring this case back to Magistrate Judge Silvain would have been if Magistrate Judge Merz were disqualified under 28 U.S.C. § 144 or § 455. Petitioner produced no evidence supporting disqualification under either of those statutes.

Petitioner notes the large number of cases in which a District Judge of this Court has recommitted a case to Magistrate Judge Merz for reconsideration of objections. That practice is specifically permitted by Fed.R.Civ.P. 72(b)(3). It is used by all the District Judges of this Court and in no way reflects any finding that a report and recommendations is in error.

Petitioner's Objections are OVERRULED.

Date: 9/11/2023

s/Edmund A. Sargus, Jr.
United States District Judge